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Appl. No. 09/980,227
Amdt. dated May 3, 2007
Reply to Office Action of 01/05/2007

REMARKS/ARGUMENTS

In the Office Action, claims 32, 36, 37, 40-42, 44, 50-55, 57-59 and 63 were rejected under 35 USC 103(a) as unpatentable over Matukura et al (4,441,621) in view of Thijs et al (5,163,919) and further in view of Paisley et al (4,363,849) on the grounds set forth in the Office Action.

Reconsideration of this rejection is requested in view of the following argument.

Matukura and Thijs refer to piercable closure members or stoppers even those having an amount of mineral filler of at least 30%, and Paisley et al show the fabrication of closures using hot runner technology. It is urged that there is no motivation to combine these three references to lead to the subject matter of claim 32.

Paisley et al disclose a cork like stopper. They teach a plastic material, which is rapidly injectionable (see column 8, lines 53 to 60), and a material, which is expandable. They even do not fill completely the mold but give the material room for expansion. This contradicts the use of the mineral filler which slows down the filling of a mold.

Contrary to this, the material used in the practice of the present invention has a mineral filler content of at least 30%, and is only comparatively slow to inject. As one can imagine, it has a comparatively high flow resistance such that a rapid injection is not possible.

Therefore, there are contradictions in the teaching of Paisley versus Matukura and Thijs so that an expert in the field would not have contemplated the teaching of Paisley et al in the present context.

Further, the teaching of Paisley et al is to use shutoff pins, which have an acute end, see Fig. 9 of the reference, which is an enlargement of Fig. 2.

This would lead to a surface mark, which resembles positively the acute end of the shutoff pin.

This would not fulfill the object of the present application. Such stopper would not be acceptable for pharmaceutical articles.

Contrary to this, the teaching of the present invention is to have a smooth-surfaced mark. Therefore, subject matter of present claim 32 is new and inventive.

Accordingly it is believed that this argument overcomes the rejections based on an attempted combination of the teachings of the cited art, thereby to present allowable subject matter in the claims.


In the event there are further issues remaining in any respect the Examiner is respectfully requested to telephone attorney to reach agreement to expedite issuance of this application.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Since the present claims set forth the present invention patentably and distinctly, and are not taught by the cited art either taken alone or in combination, this amendment is believed to place this case in condition for allowance and the Examiner is respectfully requested to reconsider the matter, enter this amendment, and to allow all of the claims in this case.

Respectfully submitted


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CERTIFICATE OF MAILING UNDER 37 CFR SECTION 1.8(a)

I hereby certify that the accompanying Amendment is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 3, 2007.

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